



Related MLN Matters Article #: SE0805 **Revised**

Date Posted: April 2, 2008

Related CR #: N/A

*Overview of New Medicare Competitive Bidding Program for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) – The first in a series of articles on the implementation of this program*

### Key Words

SE0805, Competitive, Bidding, DME, DMEPOS, SE0806, SE0807, MM5574, SE0714, MM5978

### Provider Types Affected

This program will affect any Medicare Fee-for-Service provider that may be in a position of ordering, referring, or supplying DMEPOS to a Medicare beneficiary may be affected by this program. This includes DMEPOS suppliers, physicians (including podiatric physicians), other treating practitioners (nurse practitioners, physician assistants, and clinical nurse specialists), physical and occupational therapists, and institutional providers (especially skilled nursing facilities and their social workers or care coordinators, hospitals and their discharge planners, home health agencies, and pharmacists).

**Note:** Those who refer or order DMEPOS for Medicare beneficiaries are being described as “referral agents” throughout this series.

**Note:** MLN Matters article SE0805 was impacted by the Medicare Improvements for Patients and Providers Act of 2008, which was enacted on July 15, 2008. That legislation delays the implementation of the DMEPOS competitive bidding program until 2009 and makes other changes to the program. SE0805 will be further revised and/or replaced as more details of the modified program are available.

### Key Points

- Effective July 1, 2008, Medicare will begin implementation of a new program for purchasing DMEPOS for Medicare patients.
- For Medicare beneficiaries whose permanent residence is in 1 of the 10 metropolitan statistical areas (MSAs) affected by the first phase of this program, only contract suppliers, in most instances, will be eligible to provide competitive bid items and receive payment from Medicare.
- While new payment rules may not impact referral agents directly, they may impact their patients.
- Initially, this program will affect patients obtaining DMEPOS in 10 Competitive Bidding Areas (CBAs) that align with the 10 MSAs affected by the first phase of this program and will include 10 product categories of DMEPOS.

- If a patient resides in one of the CBAs, they must use a Medicare contract supplier for competitive bid items, unless they are willing to be responsible for full payment of these items.
- This means that some patients may have to change from a noncontract supplier to a contract supplier.
- In addition, certain suppliers that rent DMEPOS that were not awarded contracts may be “grandfathered” under this program and may be able to continue to supply certain DMEPOS items/services should the beneficiary choose to continue to receive these items from a grandfathered supplier.

## Background

- Currently, Medicare payment for most DMEPOS is based on fee schedules.
- Section 1847 of the Social Security Act mandates that competitive bidding payment amounts replace the current DMEPOS fee schedule payment amounts for selected items in selected areas.
- The intent is to improve the effectiveness of the Medicare methodology for setting DMEPOS payment amounts, which will reduce beneficiary out-of-pocket expenses and save the Medicare program money, while ensuring beneficiary access to quality items and services.
- The new method brings the payment amount for these items in line with that of a competitive market and reduces the providers’ patients’ out-of-pocket expenses. The program also ensures the availability of a sufficient number of accredited suppliers for access to quality items and services.
- The law also provides for phasing in competitive bidding beginning in 10 of the largest MSAs.
- The program will be expanded into 70 additional MSAs in 2009. The program will be expanded into additional areas after 2009.
- Areas that may be exempt from competitive acquisition of DMEPOS include rural areas and areas with low population density that are not competitive, unless there is a significant national market through mail order for a particular item or service.
- An area is chosen for the Competitive Bidding Program based on several variables, including the size of its Medicare population and the amount of money spent on medical equipment and supplies in those areas.

## Definitions

- The following definitions are provided to explain several terms and their usage in this series of articles:
  - *Contract Supplier* - An entity that is awarded a contract by the Centers for Medicare & Medicaid Services (CMS) to furnish items under a competitive bidding program.
  - *Noncontract Supplier* - A supplier that is not awarded a contract by CMS to furnish items included in a competitive bidding program.
  - *Referral Agents* – This term applies to the range of physicians, practitioners or providers who prescribe DMEPOS (in essence, “order” or “refer”) for their patients.
  - *Grandfathered Supplier* - A noncontract supplier that chooses to continue to furnish grandfathered items to a beneficiary in a CBA.
  - *Grandfathered Item* - Any one of the items (as described in Code of Federal Regulations §414.220, 222, 226, and 229) for which payment is made on a rental basis prior to the implementation of a

competitive bidding program and for which payment is made after implementation of a competitive bidding program to a grandfathered supplier that continues to furnish the items in accordance with §414.408(j).

- *Single payment amount* means the allowed payment for an item furnished under a competitive bidding program.

### Initial CBAs

- Effective July 1, 2008, the competitive bidding program will be implemented in the following CBAs within these 10 MSAs:
  - Charlotte-Gastonia-Concord, North Carolina and South Carolina;
  - Cincinnati-Middletown, Ohio, Kentucky, and Indiana;
  - Cleveland-Elyria-Mentor, Ohio;
  - Dallas-Fort Worth-Arlington, Texas;
  - Kansas City, Missouri and Kansas;
  - Miami-Fort Lauderdale-Miami Beach, Florida;
  - Orlando-Kissimmee, Florida;
  - Pittsburgh, Pennsylvania;
  - Riverside-San Bernardino-Ontario, California; and
  - San Juan-Caguas-Guaynabo, Puerto Rico.

### Product Categories

- Effective July 1, 2008, the competitive bidding program will be implemented for the following product categories:
  - Oxygen supplies and equipment;
  - Standard power wheelchairs, scooters, and related accessories;
  - Complex rehabilitative power wheelchairs and related accessories;
  - Mail-order diabetic supplies;
  - Enteral nutrients, equipment, and supplies;
  - Continuous positive airway pressure, respiratory assist devices, and related supplies and accessories;
  - Hospital beds and related accessories;
  - Negative pressure wound therapy pumps and related supplies and accessories;
  - Walkers and related accessories; and
  - Support surfaces (Group 2 mattresses and overlays **(Miami MSAs only)**).

## Traveling Beneficiaries

- Any beneficiary obtaining competitive bidding items in one of the CBAs is affected by the rules of the Medicare DMEPOS Competitive Bidding Program.
- Beneficiaries who reside in a CBA and travels outside their CBAs may obtain competitive bid items and the supplier will be paid the single payment amount under the program.
- In addition, beneficiaries who do not reside in CBAs and who travel to CBAs are also affected. If they require competitive bid items, they must obtain competitive bid items from a contract supplier for that CBA. In such instances, Medicare will pay that contract supplier the DMEPOS fee schedule amount.
- The following table details how DMEPOS supplies may be acquired, given different scenarios:

If a beneficiary permanently lives in...	And travels to...	Type of supplier a beneficiary may go to...
A competitive bidding area	A competitive bidding area	A beneficiary must get competitively bid items from a contract supplier located in the competitive bidding area to which he/she traveled.
A competitive bidding area	An area <b>NOT</b> covered by the competitive bidding program	A beneficiary may get items from any Medicare-enrolled DME supplier, and the supplier will be paid by Medicare as if it were in the beneficiary's competitive bidding area.
An area <b>NOT</b> covered by the competitive bidding program	A competitive bidding area	A beneficiary must get the competitively bid item from a contract supplier in the competitive bidding area. If the beneficiary does not use a contract supplier, the noncontract supplier must ask him/her to sign an Advance Beneficiary Notice. Medicare will not pay for competitively bid items furnished by noncontract suppliers.
An area <b>NOT</b> covered by the competitive bidding program	An area <b>NOT</b> covered by the competitive bidding program	A beneficiary may get items from any Medicare-enrolled DMEPOS supplier.

- CMS is conducting extensive outreach to Medicare beneficiaries who reside in the CBAs and will be offering to help them identify contract suppliers.
- If DMEPOS suppliers or referral agents are unsure whether a beneficiary resides in a CBA and is affected by this program effective July 1, 2008, they can make that determination by comparing the ZIP code of the patient's residence to the list of ZIP codes for the CBAs, which is available at

<http://dmecompetitivebid.com/Palmetto/Cbic.nsf/docsCat/DMEPOS%20Competitive%20Bidding%20Areas%20Zip%20Codes?opendocument> on the Internet.

## Payment

- Payment for contract DMEPOS items will be the single payment amounts that were announced by CMS on March 20, 2008 (versus the current fee schedule determination of payment) for:
  - Contract Suppliers, and
  - Noncontract Suppliers that provide item to traveling beneficiaries.

## Important Links

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0805.pdf> on the CMS website.

For more information on accreditation of DME suppliers, providers should visit [http://www.cms.hhs.gov/DMEPOSCompetitiveBid/06\\_Quality\\_Standards\\_and\\_Accreditation.asp](http://www.cms.hhs.gov/DMEPOSCompetitiveBid/06_Quality_Standards_and_Accreditation.asp) on the CMS website.

For more information on single payment amounts, providers may visit <http://dmecompetitivebid.com/SPA> on the Internet.

Other MLN Matter articles that may be of interest are:

- SE0806 ("Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program: Grandfathering, Repair and Replacement, Mail Order Diabetic Supplies and Advanced Beneficiary Notices (ABNs) – The second in a series of articles on the new DMEPOS competitive bidding program") at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0806.pdf>;
- SE0807 ("Important Exceptions and Special Circumstances that Occur under the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program: – The third in a series of articles on the new DMEPOS competitive bidding program") at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/se0807.pdf>;
- MM5978 ("Phase 1 of Manual Revisions to Reflect Payment Changes for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Items as a Result of the DMEPOS Competitive Bidding Program and the Deficit Reduction Act of 2005") at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5978.pdf>;
- MM6119 ("Phase 2 Manual Revisions for the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program") located at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6119.pdf>;
- SE0714 ("Pre-Bidding Activities for the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program") at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0714.pdf>; and
- MM5574 ("Program Instructions Designating the Competitive Bidding Areas and Product Categories Included in the CY 2007 DMEPOS Competitive Bid Program") at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5574.pdf> on the CMS website.

Providers may find more detailed information at

<http://www.dmecompetitivebid.com/palmetto/cbic.nsf/DocsCat/Home> on the Internet and at  
<http://www.cms.hhs.gov/DMEPOSCompetitiveBid/> on the CMS website.